



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 18 2008

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard Millner
The Dairy Dozen – Thief River Falls, LLP
d/b/a Excel Dairy
22615 120th Avenue NE
Thief River Falls, Minnesota 56701-8685

Re: Notice of Violation
The Dairy Dozen – Thief River
Falls, LLP d/b/a Excel Dairy

Dear Mr. Millner:

U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to The Dairy Dozen – Thief River Falls, LLP d/b/a Excel Dairy (you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are violating the Minnesota State Implementation Plan at your Thief River Falls, Minnesota facility. We are concerned that in the month of June, the emissions from your facility resulted in nearby residents being advised to evacuate their homes.

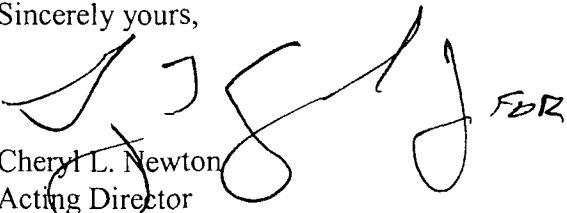
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. We have made arrangements to meet with you and your representatives at the United States Attorney's Office at the United States courthouse located at 300 South Fourth Street in Minneapolis, Minnesota on August 4 or August 5, 2008. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

EPA contact in this matter is Kevin Vuilleumier. You may contact Mr. Vuilleumier at (312) 886-6188 to confirm the conference. You should contact him within three calendar days following receipt of this letter.

Sincerely yours,


Cheryl L. Newton
Acting Director
Air and Radiation Division

Enclosures: NOV and SBREFA fact sheet

cc: Jeff T. Connell, MPCA

Richard Millner
Excel Dairy

Jack Perry, Esquire, via facsimile
Briggs & Morgan

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:	
The Dairy Dozen – Thief River Falls LLP d/b/a Excel Dairy Thief River Falls, Minnesota	NOTICE OF VIOLATION
Proceedings Pursuant to Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1)	EPA-5-08-MN-23

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). EPA finds that The Dairy Dozen – Thief River Falls, LLP d/b/a Excel Dairy (Excel Dairy) is violating the Minnesota State Implementation Plan (SIP), as follows:

Statutory and Regulatory Background

1. On May 24, 1995, EPA approved Rule 7009.0080 as part of the federally enforceable SIP for Minnesota. 60 Fed. Reg. 27411.
2. Minnesota SIP Rule 7009.0080 states that hydrogen sulfide emissions may not exceed 0.05 ppm by volume (70.0 micrograms per cubic meter) for a half hour not to be exceeded over 2 times per year. It also states hydrogen sulfide emissions may not exceed 0.03 ppm by volume (42.0 micrograms per cubic meter) for a half hour average not to be exceeded over 2 times in any 5 consecutive days.

Excel Dairy's Facility

3. Excel Dairy owns and/or operates a dairy feedlot near Thief River Falls, Minnesota.
4. Emissions from Excel Dairy's feedlot are subject to the hydrogen sulfide emissions requirements in Rule 7009.0080 in the Minnesota SIP.

Violations

5. Emissions readings taken on numerous days in May, June and July, 2008 demonstrate that Excel Dairy exceeded the hydrogen sulfide emission limit of 0.05 ppm by volume for a half hour over 2 times per year.

6. Emission readings taken on numerous days in May, June and July, 2008 demonstrate Excel Dairy exceeded the hydrogen sulfide emission limit of 0.03 ppm by volume for a half hour over 2 times during a consecutive 5 day period.

Environmental Impacts

7. Hydrogen sulfide is a colorless, water soluble, highly flammable and poisonous gas at ambient temperatures. Exposure can occur through skin contact, eye contact and inhalation. Symptoms of exposure may include irritation to skin and mucous membranes, burning eyes, headache and diarrhea. Hydrogen sulfide can cause respiratory irritation, and at higher concentrations respiratory paralysis where breathing stops. Hydrogen sulfide can rapidly fatigue the sense of smell so smell cannot be depended on as a warning of exposure.
8. The Agency for Toxic Substances and Disease Registry (ATSDR) has established an acute inhalation minimal risk level (MRL) at 70 ppb and an intermediate inhalation MRL at 20 ppb for hydrogen sulfide.

7/18/08
Date

FOR
Cheryl L. Newton, Acting Director
Air and Radiation Division

Protecting the environment is everyone's responsibility. Help EPA fight pollution by reporting possible harmful environmental activity.

To do so, visit EPA's website at <http://www.epa.gov/compliance/complaints/index.html>

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-08-MN-23, by

Certified Mail, Return Receipt Requested, to:

Mr. Richard Millner
The Dairy Dozen – Thief River Falls, LLP
d/b/a Excel Dairy
22615 120th Avenue NE
Thief River Falls, Minnesota 56701-8685

I also certify that I sent copies of the Notice of Violation by first class mail to:

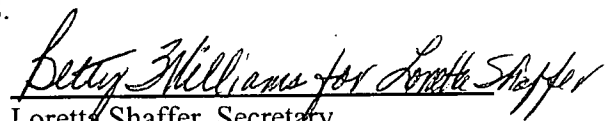
Richard Millner
Excel Dairy
44480 State Highway 25
Veblen, South Dakota 57270

Minnesota Pollution Control Agency
Attn: Jeff T. Connell, Manager
Compliance and Enforcement Division
Industrial Division

I also certify that I sent copies of the Notice of Violation by facsimile to:

Jack Perry, Esquire
Briggs & Morgan
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Fax: 612.977.8650

on the 21st day of July, 2008.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBERS: 7001 03 20 0006 0186 1184